

SUBJECT INDEX

	Page
Opinions Below	1
Jurisdiction	2
Constitutional Provisions and Statutes Involved	2
Question Presented	3
Statement of the Case	3
The Federal Question is Substantial	9

TABLE OF CONTENTS OF APPENDICES

Appendix A — Majority Opinion	1a-2a
Appendix B — Dissenting Opinion	3a-24a
Appendix C — Order of Dismissal	24a-25a
Appendix D — United States Constitution, Amendment XIV, § 1	25a
Appendix E — 28 U.S.C. §§1331, 1343; 42 U.S.C. §§ 1981, 1983	26a-27a
Appendix F — § 294 Mich. School Code; C.L. Mich. '48 § 340.294; M.S.A. § 15.3294; § 294a Mich. School Code; C.L. Mich. '48 § 340.294a; M.S.A. § 15.3294 (1)	27a-30a

INDEX TO AUTHORITIES CITED

CASES

Angostini v. Lasky, 46 Misc. 2d, 1058, 262 N.Y.S. 2d 594	10
Baker v. Carr, 369 U.S. 186	2, 9, 12, 13
Bantam Books, Inc. v. Sullivan, 372 U.S. 58	13
Bianchi v. Griffing, 238 F. Supp. 997, Appeal dismissed 382 U.S. 15	9, 10
Brouwer v. Kent County Clerk, 377 Mich. 616	10

CASES (Continued)

	Page
Brown v. Board of Education, 347 U.S. 483	9, 13
Damon v. Lauderdale County Election Comm'rs., Civil No. 1197-E (Informal Opinion)	10
Davis v. Mann, 377 U.S. 678	2
Delozier v. Tyrone Area School Board, 247 F. Supp. 30	10
Ellis v. Mayor and City Council of Baltimore, 234 F. Supp. 945 affirmed, 352 Fd2 123	10
Ex parte Siebold, 100 U.S. 371	12
Goldstein v. Rockefeller, 45 Misc. 2d 778, 257 N.Y.S. 2d 994	10
Gray v. Sanders, 372 U.S. 368	2, 4, 7, 9, 12, 13
Johnson v. Genesee County, 232 F. Supp. 567	11
Lucas v. Colorado General Assembly, 377 U.S. 713	2
Mank v. Hoffman, 87 N.J. Super. 276, 209 A.2d 150 ..	10
Miller v. Board of Supervisors, 405 P2d 857, 46 Col. Rptr. 617	10
Muskegon Prosecuting Attorney v. Klevering, 377 Mich. 666	10
Nixon v. Herndon, 273 U.S. 536	2, 12
Opinion of the Justices, 106 N.H. 233, 209 A.2d 471	10
Port Jefferson v. Board of Supervisors, 256 N.Y.S. 2d 34	11
Reynolds v. Sims, 377 U.S. 533	2, 9, 12, 13
Roman v. Sincock, 377 U.S. 695	2
Seaman v. Fedourich, 262 N.Y.S. 2d 444, 16 N.Y. 2d 94	10
Shilbury v. Board of Supervisors, 46 Misc. 2d 837, 260 N.Y.S. 2d 931	10

CASES (Continued)

	Page
Simmon v. Lafayette Parrish, 226 F. Supp. 301	10
Smiley v. Holm, 285 U.S. 355	2
South v. Peters, 339 U.S. 959	11
Standard Computing Scale Co. v. Farrell, 249 U.S. 2d 571	13
State ex rel Sonneborn v. Sylvester, 26 Wis. 2d 43, 132 N.W. 2d 249	10
Tedesco v. Board of Supervisors of Elections, 339 U.S. 940	11
Town of Greenburgh v. Board of Supervisors, 49 Misc. 2d 116, 266 N.Y.S. 2d 998	10
United States v. Classic, 313 U.S. 299	2
United States v. Mosely, 238 U.S. 383	12
United States v. Saylor, 322 U.S. 675	2
WMCA v. Lomenzo, 377 U.S. 633	2
Wesberry v. Sanders, 376 U.S. 1	2
Yick Wo v. Hopkins, 118 U.S. 356	13

CONSTITUTIONS AND STATUTES

United States Constitution, Amendment XIV, § 1.....	2
Constitution of the State of Michigan, 1963	11
Federal Statutes—	
28 U.S.C. § 1253	2
28 U.S.C. § 1331	2
28 U.S.C. § 1343	2
28 U.S.C. § 2281	1
42 U.S.C. § 1981	2
42 U.S.C. § 1983	2

CONSTITUTIONS AND STATUTES (Continued)

	Page
Michigan Statutes—	
Michigan School Code, § 294; C.L. Mich. '48 § 340.294; M.S.A. § 15.3294	23
Michigan School Code, § 294a; C.L. Mich. '48 § 340.294a; M.S.A. § 15.3294 (1)	3
Act 112, Public Acts of Michigan, 1966	11

MISCELLANEOUS

79 Harvard Law Review 1228	9
U. S. Advisory Commission on Inter-Governmental Relations, p. 78	9

**IN THE SUPREME COURT OF THE
UNITED STATES**

OCTOBER TERM, 1966

No. _____

JAMES SAILORS, et al.,

Appellants,

vs.

**THE BOARD OF EDUCATION OF THE COUNTY
OF KENT, et al.,**

Appellees.

JURISDICTIONAL STATEMENT

This is an appeal by James Sailors, *et al.*, from a judgment entered on May 2, 1966, by the District Court of the United States for the Western District of Michigan, Southern Division, by a three-judge statutory court specially convened under the provisions of 28 U.S.C. Sec. 2281. This Statement is submitted by appellants to show that the Supreme Court of the United States has jurisdiction of the appeal and that a substantial federal question is presented.

OPINIONS BELOW

The majority and dissenting opinions of the District Court are reported in 254 F. Supp. 17 (D.C. W.D. Mich. 1966) and a copy of the majority opinion is appended to this jurisdictional statement as Appendix A, at p. 1a. The dissenting opinion of District Judge Fox is appended to this statement as Appendix B, at p. 3a.

The judgment of the District Court is appended as Appendix C, at p. 24a.

JURISDICTION

This suit was instituted by appellants under 42 U.S.C. §§ 1981, 1983; 28 U.S.C. §§ 1331, 1343 seeking an injunction and declaratory relief restraining the enforcement, operation and application of Section 294 of the Michigan School Code,^[1] appellants being denied full and equal voting rights and full and equal representation in the election of members of the governing board of The Board of Education of the County of Kent, a school district under Michigan law exercising jurisdiction county-wide, as secured by the provisions of the equal protection clause of the Fourteenth Amendment to the United States Constitution.

Notice of appeal to this Court was filed on June 16, 1966.

The jurisdiction of this Court to review this decision by direct appeal is conferred by 28 U.S.C. § 1253.

The following decisions sustain the jurisdiction of this Court to review the judgment on appeal in this case: *Nixon v. Herndon*, 273 U.S. 536; *Smiley v. Holm*, 285 U.S. 355; *United States v. Classic*, 313 U.S. 299; *United States v. Saylor*, 322 U.S. 675; *Baker v. Carr*, 369 U.S. 186; *Gray v. Sanders*, 372 U.S. 368; *Wesberry v. Sanders*, 376 U.S. 1; *Reynolds v. Sims*, 377 U.S. 533; *WMCA v. Lomenzo*, 377 U.S. 633; *Davis v. Mann*, 377 U.S. 678; *Roman v. Sincock*, 377 U.S. 695; *Lucas v. Colorado General Assembly*, 377 U.S. 713.

CONSTITUTIONAL PROVISIONS AND STATUTES INVOLVED

The United States Constitution, Amendment XIV, § 1, is set forth in Appendix D, at page 25a.

42 U.S.C. §§ 1981 and 1983 and 28 U.S.C. §§ 1331 and 1343 are set forth in Appendix E, at page 26a-27a.

[1] C.L. Mich. '48 §340.294; M.S.A. §15.3294.

Section 294 of the Michigan School Code,^[3] and 294(a) of the Michigan School Code,^[3] which replaced Section 294 (initially sought to be invalidated) are set forth in Appendix F, at page 27a-30a.

QUESTION PRESENTED

"The primary question is whether or not the guarantees of the equal protection clause of the Fourteenth Amendment to the Federal Constitution are extended to electors of local school boards in the State of Michigan, which local boards elect intermediate (county) boards of education in accordance with a system paralleling the 'county-unit' system invalidated by the Supreme Court in *Gray v. Sanders*, 372 U.S. 368, 83 S.Ct. 801, 9 L. Ed. 2d 821 (1963)." [As stated by District Judge Fox, dissenting opinion, Appendix B, page 6a, and concurred in by Circuit Judge O'Sullivan and District Judge Kent, majority opinion, Appendix A, page 1a-2a.]

STATEMENT OF THE CASE

The individual appellants, as citizens of the United States and the State of Michigan, and as qualified and registered electors of each brought suit to enjoin the enforcement and operation of Section 294 of the Michigan School Code,^[4] pertaining to the county-unit system of electing county school board members. When Section 294a,^[5] replaced Section 294, by appropriate amendment to the complaint the new provision, which continued the county-unit devise, was also sought to be invalidated.

[2] Supra footnote 1.

[3] C.L. Mich. '48 §340.294a; M.S.A. §15.3294(1).

[4] Supra footnote 1.

[5] Supra footnote 3.

In Michigan, school board members for county school districts are elected by a Georgia-type county-unit system which was struck down in *Gray v. Sanders supra*,^[6] specifically, school board members in each local school district within the county are elected at at-large elections to terms of 3 years, staggered so that the term of one or more board members expires each year. One school board member from each local school district within the county attends a biennial meeting called by the county superintendent of schools to elect and fill the seats of county school board members whose terms are expiring. There are 5 county school board members elected to staggered 6 year terms. At the biennial election, election is by majority vote of those present with the representative of the people in each local school district having one vote irrespective of the number of people represented. Federal census figures by school districts were not available except in the case of Grand Rapids where the boundaries were the same as that of the City of Grand Rapids. A special census was taken in 4 of the smaller school districts. A tabulation is as follows:

Local School District	Population	Vote	Population-Variance Ratio
Ashley (Gratton #6 Fractional)	145	1	1391 to 1
Boyd (Alpine #10)	191	1	1056 to 1
Hoag (Solon #8)	111	1	1818 to 1
Nelson Center (Nelson #6)	99	1	2038 to 1
Grand Rapids (Grand Rapids #1)	201,777	1	1 to 1
Kent County Total	363,187		

[6] As phrased by District Judge Fox: "This is essentially a unit system of voting — each school district within the county receives one vote in the election of each of the five members of the County board." (p. 5a).

The 0-19 school census taken annually in each local school district illustrates the relative size population-wise of the 40 local school districts within Kent County in 1963 and the 39 local school districts in 1964:

	1963	1964
Algoma #1 fractional (Rockford)	4,625	4,637
Alpine #10	98	98
Byron #1 fractional	2,830	2,842
Caledonia	2,614	2,683
Courtland #1	158	163
Courtland #3	86	113
Courtland #5	105	115
Courtland #6 fractional	61	66
East Grand Rapids	5,300	5,439
Grand Rapids #1	75,863	76,395
Grand Rapids #15 fractional (Forest Hills)	4,514	4,759
Gratton #1 fractional	370	377
Gratton #5 fractional	178	194
Gratton #6 fractional	82	82
Lowell #1 fractional	3,049	3,216
Lowell #6	49	49
Nelson #3 fractional	106	93
Nelson #5 fractional	2,156	2,169
Nelson #6	55	58
Nelson #7 fractional	49	52
Paris #6 fractional (Godwin)	5,652	5,668
Paris #8	181	202
Paris #12 fractional (Kentwood)	6,760	7,216
Plainfield #9 fractional (Comstock Park)	2,607	2,806
Plainfield #16 fractional (Northview)	4,211	4,404
Solon #8	65	57
Sparta	3,685	3,765
Spencer #1 fractional	82	94
Spencer #2	31	32
Tyrone #4 fractional (Kent City)	1,610	1,592
Tyrone #8 fractional	258	231
Vergennes #1	35	31
Vergennes #4 fractional	92	88
Walker #1	34	35

1963

1964

Walker #11	1,014) 4,643
Walker #16 fractional	3,468	
Wyoming #1 (Grandville)	5,856	6,080
Wyoming #7	2,961	2,890
Wyoming #8 fractional (Kelloggsville)	4,457	4,584
Wyoming #11 (Wyoming Public)	12,508	12,610
	<hr/> 157,915	<hr/> 160,638

The people in Grand Rapids constitute 55% of the population of the County but have only 1/40th or 2½% of the voting power in electing county school board members. A voter in Nelson Center has 2000 times the voting power of a voter in Grand Rapids. Based on the 0-19 school census (in 1963), 98% of the population of the County resided in the 19 larger school districts and the remaining 2% resided in the 21 smaller school districts and under the county-unit system referred to can control county school affairs. The correlation between school census figures (ages 0-19) and actual population while not 100%^[7] is good enough for purposes of deciding the constitutional issues raised in this case since in any event the population variance ratios are to be considered on a basis of not 2-1 or 4-1, but 2000-1.

The result of this county-unit system is to permit the people in sparsely settled rural areas containing only 2% of the population of the county who have *demonstrated* a complete lack of concern for, sympathy with or understanding of the educational problems and challenges crying out for solution in the urban areas and who have maintained a county school district unresponsive to the needs and requirements of the overwhelming majority. This has

[7] 1960 population figures show that 55.6% of the County's population resided within the School District of the City of Grand Rapids while an extension of the 1963 0-19 school census count would indicate that the total had dropped to 48% by 1963. In Nelson Center actual count in 1963 indicated .027% of the County population resided within Nelson Center, whereas the 1963 0-19 school census would indicate a .035% figure. Boyd School District had an actual count of 191, or .060% of the County population; the 0-19 school census indicates a .063% figure. (See tables supra pp. 4-6).

resulted, in depleting and invading the interests of the plagued people in the core city in the following manner.

- (a) Siphoning off tax monies from poverty stricken sections of the urban areas to wealthy rural districts;
- (b) Shunting population including the school children therein from one school district to another, disrupting the educational process for the sole apparent reason of enriching the rural areas at the expense of the urban areas;
- (c) Frustrating, comprehensive and coordinated plans for county-wide solutions to urban educational problems which cannot be restricted to artificial boundary lines.

The appellants, below, sought to enjoin the county-unit system and to require popular election of county school board members on a one person one vote basis. Appellants also vainly sought to enjoin and restrain local school district boundary changes then under consideration by the rural dominated county school board.

The district court by a 2-1 vote denied the appellants any of the relief sought. The whole panel agreed that this case presented the question of applicability of *Gray v. Sanders, supra*, to the local level of government. The majority opinion states:

"The facts and issues in connection with this case are very ably set forth in the opinion of Judge Fox.
• • •

"The matter of malapportionment of boards and agencies of the states and their subsidiaries has not yet been before the United States Supreme Court. • • •
• • •

"We recognize that the Supreme Court of the United States may at some time in the future reach the conclusion that the District Courts of the United States have the power and duty to prescribe guide lines for the selection of the many boards and commis-

sions created and organized in connection with local government. We are satisfied that the Supreme Court of the United States has not yet reached that point. We are satisfied that we should not anticipate that the Supreme Court will reach that point." (Appendix A at pages 1a, 2a).

The Honorable Noel P. Fox, District Judge, in his thorough and penetrating dissenting opinion succinctly answered the primary question involved:

"* * * Under the authority of Reynolds and other decisions of the United States Supreme Court herein discussed, I can see no warrant to arbitrarily cut off the citizens' right to fair representation at the county level." (Appendix B at page 18a).

Judge Fox also pointed out that this case did not involve the composition of appointive boards and commissions but rather that of a completely separate municipal corporation exercising important school functions and responsible to its constituents, not to the state legislature:

"* * * This is not a situation in which the legislature has appointed a commission or board — no one is contending for a right to vote for appointed officials. The legislature has not chosen to appoint Boards for each of the Intermediate School Districts in the State of Michigan, in which case the function of providing for public education would be delegated, but not, legislatively speaking, the responsibility. For in that situation, the legislature would have delegated the function of providing for public education, but the appointees would have been directly responsible to the legislature, an equally apportioned body directly responsible to the people.

"But here the legislature has delegated not only the function, but also the responsibility, which would not be objectionable but for the gross malapportionment in the existing system of selecting the Board. * * *"

(Appendix B, at page 18a-19a).

THE FEDERAL QUESTION IS SUBSTANTIAL

We contend that democracy at the local level of government is just as important as it is in the state house (*Baker v. Carr, supra, Reynolds v. Sims, supra*); and just as important as it is in election of statewide officeholders (*Gray v. Sanders, supra*): and that "today education is perhaps one of the most important functions of state local governments" (*Brown v. Board of Education*, 347 U.S. 483, p. 493); and that there can be little question but that this case is not only important to these litigants but to the workings of democracy at the local level and to educational systems nationwide.^[8]

Since the landmark decision of *Baker v. Carr, supra*, the present case is only the second one involving malapportionment at the local level of government to reach the Supreme Court. The first was *Bianchi v. Griffing*, 238 F. Supp. 997, involving a county board of supervisors in the State of New York, where Supreme Court review was refused on procedural grounds.^[9] In spite of the absence of appellate review by this court, the federal and state courts have been busily considering and deciding malapportionment issues at the local level. Almost all apply *Baker, Gray*

[8] Not only is education one of the most important functions of state and local governments, but numerically speaking the school board is the most common form of governmental unit in the United States. See *U.S. Advisory Commission on Intergovernmental Relations, Performance of Urban Functions; Local and Area Wide* 78 (1963). In 1962 there were over 34,000 of these autonomous bodies, most of them popularly elected. (See U.S. Department of Commerce Bureau of the Census, 1965 Statistical Abstract of the United States 419.) See Note, 79 Harv. Law Rev. 1228 (1966) at 1275 where the author observes: "The electoral districts from which these (school) boards are chosen are often drawn to coincide with school attendance districts, so that the electoral districts often have neither equal numbers of inhabitants nor equal numbers of children. Probably no public issue arouses the interest of more municipal citizens than public education; heated battles over taxation and bond issues, consolidation of school districts, quality of education, and segregation indicate that any major shift in local school board policy will be opposed and defended vigorously."

[9] The trial court in the *Bianchi* case entered an interlocutory order requiring the county board of supervisors to submit a reapportionment plan and retaining jurisdiction. Plaintiff-Appellee moved to dismiss the appeal on the grounds that it was an attempt to appeal a non-reviewable order. In 382 U.S. 15 this Court held: "The motion to dismiss is granted and the appeal is dismissed for want of jurisdiction," apparently agreeing with the appellee that the interlocutory order was not a final order which could be appealed.

and Reynolds, to local government.^[10] The Michigan Supreme Court was deadlocked in two cases (a 4 to 4 vote)^[11] solely because of the desire of Justice Eugene F. Black of the Michigan Supreme Court to refrain from outrunning the Supreme Court of the United States. In the *Muskegon* case, Justice Black's views vividly illustrate the need for review and decision by the Supreme Court of the United States: (377 Mich. pp. 668-671).

"To employ an apt expression of Justice ADAMS, our immediate question is whether this Court of a State is going 'to attempt to outrun the Supreme Court of the United States.' . . . Now if this Supreme Court did have the final word for the present case, which of course it does not, I would join those who say that the 'one-man one-vote' principle of the *Reynolds* through *Lucas Cases* . . . applies to and controls the organization of county government in Michigan. Having reread Judge Searl's opinion of the companion case (considered *post*), I lean indeed to belief that the United States Supreme Court will — in the ultimate — apply Fourteenth Amendment equality per

[10] *Ellis v. Mayor and City Council of Baltimore*, 234 F. Supp. 945 (D.C. Md. 1964) affirmed, 352 F.2d 123 (4th Cir. 1965) (City Council); *Mauk v. Hoffman*, 87 N.J. Super. 276, 209 A.2d 150 (Super. Ct. of N.J., Ch. Div. 1965) (County Board of Freeholders); *Blanchi v. Grifing*, 217 F. Supp. 166, 238 F. Supp. 997 (D.C.E.D.N.Y. 1965), appeal dismissed, 382 U.S. 15 (1965) (County Board of Supervisors) *Goldstein v. Rockefeller*, 45 Misc. 2d 778, 257 N.Y.S. 2d 994 (Sup. Ct. 1965) (County Board of Supervisors); *Augustini v. Lasky*, 46 Misc. 2d 1058, 262 N.Y.S. 2d 594 (Sup. Ct. 1965) (County Board of Supervisors); *Shilbury v. Board of Supervisors*, 46 Misc. 2d 837, 260 N.Y.S. 2d 931 (Sup. Ct. 1965) (County Board of Supervisors); *Seaman v. Fedorick*, 262 N.Y.S. 2d 644, 16 N.Y. 2d 94 (Ct. of App. 1965) (Common Council); *Town of Greenburgh v. Board of Supervisors*, 49 Misc. 2d 116, 266 N.Y.S. 2d 998 (Sup. Ct. 1966) (County Board of Supervisors); Opinion of the Justices, 106 N.H. 233, 209 A.2d 671 (1965) (Applying state legislation toward boundaries) *State ex rel. Sonneborn v. Sylvester*, 26 Wis. 2d 43, 132 N.W. 2d 249 (1965) (County Board of Supervisors); *Delesier v. Tyrone Area School Board*, 247 F. Supp. 30 (D.C.W.D. Pa. 1965) (School Board); *Simmon v. Lafayette Parish*, 236 F. Supp. 301 (D.C.W.D. La. 1964) (Police Jury-Parish governing authority) (Defendant's motion to dismiss, denied); *Damen v. Lauderdale County Election Comm'rs*, Civil No. 1197-E, (D.C.S.D. Miss. 1964) (Informal opinion) reprinted in *National Municipal League, Court Decisions on Legislative Reapportionment*, Vol. 12, p. 129 (1965) (County Board of Supervisors); *Miller v. Board of Supervisors*, 485 P.2d 857, 46 Cal. Rptr. 617 (1965) (County Board of Supervisors applying state statute requiring equal population districting).

[11] *Muskegon Prosecuting Attorney v. Klovering*, 377 Mich. 666 (1966); *Brouwer v. Kent County Clerk*, 377 Mich. 616 (1966).

the cited cases to the elective organization of local government. . . .

“ . . . Seated as we are as a subordinate court confronted by an undecided Federal question of nationally controlling eminence, I would pause upon that ground until a specifically corresponding issue comes to reliable disposition in the Federal system proper. . . . ”

Other than the present case, and the two Michigan cases, just mentioned, the only case refused to apply *Baker, et al.*, at the local level of government is *Jphnson v. Genesee County*, 232 F. Supp. 567 (E.D. Mich. 1964.)^[12]

It is apparent from this volume of litigation that reapportionment is on the march at the local level of government as well as at the state house level, but there is a great need for an authoritative decision and guidance from this Court.^[13] This conflict in authority and the deadlock in the Michigan Court needs desperately to be resolved.

While it may have unique features, the county-unit system for electing county school board members in Michigan is essentially the same as the system condemned in *Gray*

[12] The decision in *Johnson* is questionable because the District Judge was of the opinion that he was bound by the decision of the Supreme Court in *Tedesco v. Board of Supervisors of Elections*, 339 U.S. 940. Reliance on *Tedesco* would seem misplaced because there the plaintiffs sought to correct malapportionment of the 14th city commission based upon the privileges and immunities clause of the 14th Amendment rather than the equal protection clause and because in *Tedesco* the appeal was dismissed in a memorandum opinion for want of a substantial federal question, 339 U.S. 940, 7 days after the Supreme Court handed down the *South v. Peters*, 339 U.S. 969, decision which reiterated previous decisions that apportionment matters were not justiciable. Obviously, *Tedesco* followed *South v. Peters*, and the reversal of *South v. Peters* in *Baker v. Carr*, and *Gray v. Sanders* would have the same effect on *Tedesco*. Not included in this count is *Port Jefferson v. Board of Supervisors*, 256 N.Y.S. 2d 34 (Sup. Ct. 1964) where the trial court refused to order reapportionment “in view of the lack of appellate court precedent in New York State.” In view of the appellate court decisions in the New York State courts and the *Bianchi* case all since 1964 the reason for such hesitancy is gone.

[13] Besides the deadlock in the Michigan Supreme Court, the State Legislature has just passed and the Governor has signed, a county home rule bill which provides for equally apportioned districts for county supervisors, disregarding the constitutional guarantee of one supervisor for each township contained in the Michigan Constitution of 1963. (Act 112 of the Public Acts of Michigan, 1966). Judicial review of this legislation is inevitable and in view of the deadlock in the Michigan Supreme Court only this Court can resolve the matter with finality.

*v. Sanders, supra.*¹¹⁴ As in *Gray* there is here an indirect debasing or diluting of a citizen's vote; where one person's vote counts for more than another's depending upon his place of residence. The common denominator in *Baker, Reynolds, Gray* and the case at bar is that in each instance there is a lack of equal representation for equal numbers of people. The clear lesson of these cases is that an indirect debasing or diluting of a citizen's vote whether the scheme is simple or sophisticated is now condemned the same as it is when done directly by ballot-box stuffing (*Ex parte Siebold*, 100 U.S. 371); vote fraud (*United States v. Mosely*, 238 U.S. 383); or by a complete denial of the right to vote (*Nixon v. Herndon*, 273 U.S. 536). As Chief Justice Warren said in *Reynolds*:

"* * * (T)he right of suffrage can be denied by a debasement or dilution of the weight of a citizen's vote just as effectively as by wholly prohibiting the free exercise of the franchise." (377 U.S. p 555).

Justice Douglas' holding in *Gray* is equally pertinent:

"Once the geographical unit for which a representative is to be chosen is designated, all who participate in the election are to have an equal vote — whatever their race, whatever their sex, whatever their occupation, whatever their income, and wherever their home be in that geographical unit. This is required by the equal protection clause of the Fourteenth Amendment." (372 U.S. p. 379).

And as Chief Justice Warren summarized in *Reynolds*:

"* * * (T)he fundamental principle of representative government in this country is one of equal representation for equal numbers of people, without regard to race, sex, economic status, or place of residence within a State. * * *" (377 U.S. p. 560-561).

¹¹⁴ Judge Fox states that the "local board elect intermediate county boards of education in accordance with a system paralleling the county-unit system invalidated by the Supreme Court in *Gray v. Sanders*."

It hardly needs to be added that these rights so eloquently phrased in *Gray* and *Reynolds* protect individuals at every level of government. *Standard Computing Scale Co. v. Farrell*, 249 U.S. 571, p. 577; *Bantam Books, Inc. v. Sullivan*, 372 U.S. 58, p. 68; *Kick Wo. v. Hopkins*, 118 U.S. 356, p. 374.

The evil that might emanate from an improperly apportioned Tennessee (*Baker v. Carr, supra*) or Alabama (*Reynolds v. Sims, supra*) legislature, or that could result from an improperly balanced primary election system in Georgia (*Gray v. Sanders, supra*) is no greater than that which befalls the people of the School District of the City of Grand Rapids with a total population of 201,777 in a County of 363,187. Facing as it does the great and complex problems of urban upheavals and frustrations, the people of Grand Rapids bring to the biennial election of the County School Board their *one* vote which is equated to that of Nelson Center's *one* vote with a population of 99. Then, during the year they bring their educational problems fully as serious as considered by this Court in *Brown v. Board of Education*, (*supra*, at p. 493), only to be rejected by the "majority" of the board which is controlled by 2 per cent of the population. Certainly an imbalance of such magnitude in considering matters of such importance warrants protection by this Court. Metropolitan problems cannot be solved unless they are recognized as metropolitan problems. The core city contains the smoldering resentments, frustrations, miseries and the opportunities that must be shared and solved by everyone. People of all areas must meet upon equal footing and solve their common problems sensibly and forthrightly. The alternative is a compounding of hatreds, riots and chaos.

Without equal representation for the people in the urban areas adequate recognition, consideration and solution of their problems is impossible.

CONCLUSION

We respectfully and urgently urge this Court to accept appeal herein for plenary review and to reverse decision below.

Such action is essential to the nation as a whole.

Respectfully submitted,

WENDELL A. MILES

311 Waters Building
Grand Rapids, Michigan 49502

ROGER D. ANDERSON

1107 Mich. Nat'l Bank Bldg.
Grand Rapids, Michigan 49502

Counsel for Appellants

Dated: August 2, 1966.